

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Joseph Meszaros

(b) County of Residence of First Listed Plaintiff Bucks County, PA

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Marshall E. Kresman, Esquire, One Greentree Centre, 10000
Lincoln Drive East, Suite 201, Marlton, NJ 08053, 856-596-9333,
mail@kresmanlaw.com

DEFENDANTS

Bentley Jackson, Delaware Express Co, Dennis Silvio, Ryder
Truck Rental LT, USA Container Company Inc, USA Freight **+**

County of Residence of First Listed Defendant Cumberland County, NJ

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332

Brief description of cause:
Diversity of Citizenship

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

3/8/12

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/08/2012

2. Defendant, Bentley Jackson, is a individual and citizen of the State of New Jersey.

3. Defendant, Delaware Express Company, is a corporation and/or business entity regularly doing business in the State of New Jersey and is a citizen of the State of Maryland as it is organized and/or incorporated within the State of Maryland, with its principal place of business located in the State of Maryland.

4. Defendant, Dennis Silvio, is a individual and citizen of the State of New Jersey.

5. Defendant, Ryder Truck Rental, L.T., is a corporation and/or business entity regularly doing business within the State of New Jersey while it is a citizen of the State of Florida.

6. Defendant, USA Container Company, Inc., is a corporation and/or business entity that is a citizen of the State of New Jersey as it is organized and/or incorporated within the State of New Jersey, with its principal place of business within the State of New Jersey.

7. Defendant, USA Freight Systems LLC, is a corporation and/or business entity that is organized and/or incorporated and a citizen of the State of New Jersey, with its principal place of business within the State of New Jersey.

8. Jurisdiction of this Court in plaintiff's cause of action is invoked under 28 U.S.C. Section 1332, as there is diversity of citizenship between the parties and the amount in controversy, exclusive of interest and costs, is in excess of \$75,000.00.

9. On or about the 14th day of June, 2010, at approximately 4:29 a.m., defendants Ryder Truck Rental LT, USA Container Company, Inc. and USA Freight Systems LLC, individually, jointly and severally owned and controlled a certain commercial motor vehicle then and there possessed and operated by their agent, servant, workman and/or employee, defendant Dennis Silvio, in the course and scope of his employment, traveling in a northerly direction on Interstate 95, at or near exit 41, Milford, Fairfield County, State of Connecticut, when it was so negligently operated that it came into violent collision with the rear of another commercial motor vehicle owned and controlled by defendant Delaware Express Company, then and there possessed and operated by its agent, servant, workman or employee, defendant Bentley Jackson in the course and scope of his employment, traveling in the same direction on Interstate 95, when it was so negligently operated that it then came into violent collision with the rear of a motor vehicle being operated in the same direction by plaintiff Joseph Meszaros, as a result of which plaintiff sustained injuries more particularly set forth hereinafter.

10. At the time and place aforesaid, the carelessness and negligence of the defendants Ryder Truck Rental LT, USA Container Company, Inc. and USA Freight Systems LLC, by and through their agent, servant, workman or employee defendant Dennis Silvio consisted of the following:

(a) Defendant operated his motor vehicles at an excessive rate of speed;

- (b) Defendant failed to have his vehicle under proper and adequate control;
- (c) Defendant failed to keep a proper lookout for traffic with superior position upon the highway;
- (d) Defendant failed to keep an assured clear stopping distance between his vehicle and the vehicle traveling in front of his vehicle;
- (e) Defendants failed to inspect, maintain and have their motor vehicle in proper operating condition which was a substantial cause of the accident herein.

11. At the time and place aforesaid, the carelessness and negligence of the defendant Delaware Express Company by and through its agent, servant, workman or employee defendant Bentley Jackson consisted of the following:

- (a) Defendant operated his motor vehicles at an excessive rate of speed;
- (b) Defendant failed to have his vehicle under proper and adequate control;
- (c) Defendant failed to keep a proper lookout for traffic with superior position upon the highway;
- (d) Defendant failed to keep an assured clear stopping distance between his vehicle and the vehicle traveling in front of his vehicle;
- (e) Defendants failed to inspect, maintain and have their motor vehicle in proper operating condition which was a substantial cause of the accident herein.

12. By reason of the aforesaid negligence of the defendants, plaintiff, Joseph Meszaros, sustained serious, permanent and severe injuries in and about his person in the nature of cervical strain and sprain; bulging discs at C3-C4, C4-C5, C5-C6 and C6-C7; cervical facet joint syndrome; partial rotator cuff tear of the right shoulder; post-traumatic subacromial impingement syndrome; partial tear of the biceps tendon; anxiety reaction; post traumatic syndrome, together with a severe and permanent shock to his nervous system.

13. As a result of the injuries sustained, plaintiff was obliged to expend and in the future will have to continue to expend or will have to reimburse his workers compensation carrier sums of money for medicine and medical treatment in and about endeavoring to treat and cure himself of his injuries to his financial damage and loss.

14. As a further result of the aforesaid injuries, plaintiff was unable and will be unable to attend to his usual duties and occupations and thereby has suffered or will suffer a loss of earnings or will have to reimburse his compensation carrier for indemnity payments received and

will have impairment of future earning capacity and thereby lose the emoluments which would have come to him through his employment to his great financial damage and loss.

COUNT II

JOSEPH MESZAROS v. BENTLEY JACKSON, DELAWARE EXPRESS CO.

Negligence and Violation of 49 C.F.R. 395

15. Plaintiff incorporates by reference Count I, paragraphs 1 through 14, fully as though set forth at length herein.

16. Defendant Delaware Express Co., both individually and/or by and through its agent, workman, and/or employee, defendant Bentley Jackson, was negligent and in violation of federal statutes including 49 C.F.R. 395 in directing its defendant employee to operate his vehicle in what was an unsafe manner that caused the defendant driver to unsafely operate his motor vehicle in excess of the limitations allowable under federal law and safe driving practices.

17. The aforementioned code and other violations were substantial factors in the happening of the accident herein.

COUNT III

**JOSEPH MESZAROS V. DENNIS SILVIO, USA CONTAINER COMPANY, INC. AND
USA FREIGHT SYSTEMS LLC**

18. Plaintiff incorporates by reference Count I, paragraphs 1 through 14, fully as though set forth at length herein.

19. Defendants USA Container Company, Inc. and USA Freight Systems LLC, individually, jointly and severely, and/or by and through its agent, workman, and/or employee, defendant Dennis Silvio, was negligent and in violation of federal statutes including 49 C.F.R. 395 in directing its defendant employee to operate his vehicle in what was an unsafe manner that caused the defendant driver to unsafely operate his motor vehicle in excess of the limitations allowable under federal law and safe driving practices.

20. The aforementioned code and other violations were substantial factors in the happening of the accident herein.

COUNT IV

JOSEPH MESZAROS v. DELAWARE EXPRESS CO.

Negligent Hiring

21. Plaintiff incorporates by reference Counts I & II, paragraphs 1 through 17, as though fully set forth at length herein.

22. Prior to and at the time aforesaid, defendant Delaware Express Company negligently hired, supervised and/or retained Bentley Jackson, who defendant Delaware Express Company knew or should have known lacked the ability as evidenced by his driving record and/or other history before and after his hiring or otherwise was an unfit employee for the truck driving position for which he was hired.

23. The negligence of the defendant Delaware Express Company, by and through their agents, servants, workmen or employees, in hiring, supervising and/or retaining defendant Bentley Jackson included the following:

- (a) failing to exercise due care in the hiring process;
- (b) failing to properly interview, investigate and/or determine the background, qualifications, attributes, tendencies and fitness of character of defendant Bentley Jackson as such would relate to his ability to safely and properly do the job for which he was hired;
- (c) failing to properly train, supervise and/or control defendant Bentley Jackson, notwithstanding knowledge that he was unfit, unqualified and/or not suited to do the job for which he was hired;
- (d) failing to discharge or relieve defendant Bentley Jackson of his position, notwithstanding knowledge that he was unfit, unqualified and/or not suited to do the job for which he was hired.

COUNT V
JOSEPH MESZAROS V. USA CONTAINER COMPANY, INC. AND USA FREIGHT
SYSTEMS LLC

24. Plaintiff incorporates Counts I & III, paragraphs 1 through 14 and 18 through 20 as fully as though set forth herein at length.

25. Prior to and at the time aforesaid, defendants USA Container Company, Inc. and USA Freight Systems LLC, individually, jointly and severely negligent hired, supervised and/or retained Dennis Silvio, who defendants USA Container Company, Inc. and USA Freight Systems, LLC knew or should have known lacked the ability as evidenced by his driving record and/or other history before and after his hiring or otherwise was an unfit employee for the truck driving position for which he was hired.

26. At or prior to the time aforesaid, the individual, joint and/or several carelessness and negligence of the defendants USA Container Company, Inc. and USA Freight Systems LLC, individually, jointly and severely, and by and through their agents, servants, workmen or employees, consisted of the following:


- (a) failing to exercise due care in the hiring process;

- (b) failing to properly interview, investigate and/or determine the background, qualifications, attributes, tendencies and fitness of character of defendant Dennis Silvio as such would relate to his ability to safely and properly do the job for which he was hired;
- (c) failing to properly train, supervise and/or control defendant Dennis Silvio, notwithstanding knowledge that he was unfit, unqualified and/or not suited to do the job for which he was hired;
- (d) failing to discharge or relieve defendant Dennis Silvio of his position, notwithstanding knowledge that he was unfit, unqualified and/or not suited to do the job for which he was hired.

WHEREFORE, plaintiff demands judgment against each defendant individually, jointly and/or severally in an amount in excess of \$75,000.00 exclusive of costs upon each count.

Dated: _____

3/8/12

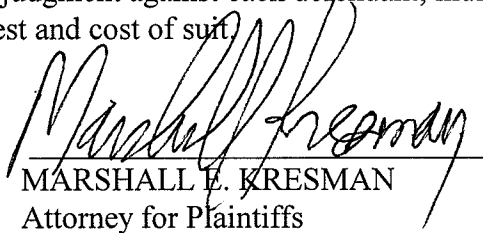

MARSHALL E. KRESMAN
Attorney for Plaintiffs

CERTIFICATION

PLEASE TAKE NOTICE THAT plaintiff hereby demands a trial by jury as to all issues of fact set forth herein.

Plaintiff certifies that there are no other known legal proceedings arising out of this lawsuit pending.

WHEREFORE, plaintiffs demand judgment against each defendant, individually, jointly and/or severally, together with interest and cost of suit.


MARSHALL E. KRESMAN
Attorney for Plaintiffs